IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

JUDGMENT

S.B.Civil Writ Petition No.1893/1996
M/s. Gopal Filling Station vs. Board of Revenue & ors.

Date : 7.9.2007

HON'BLE MR. PRAKASH TATIA, J.

Mr.SN Trivedi, for the petitioners.
Mrs.RR Kanwar, Dy.GA, for the respondents.

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BY THE COURT :

Heard learned counsel for the parties.

The petitioner has confined its relief and prays that even if the petitioner was holding a valid title deed as the Gram Panchayat issued patta for the land in question after taking full cost of land on 22.6.1966, the petitioner is ready to pay the regularisation charges for getting his land regularised to avoid all other conflicts which may come in running his petrol pump and he is ready to pay the charges as required to be paid for regularisation under the Rajasthan Land Revenue (Allotment, Conversion and Regularisation of

Agriculture Land for Construction of Cinema, Hotel and for establishment of Petrol Pump) Rules, 1978 (for short 'the Rules of 1978').

It appears from the facts of the case that the petitioner obtained a patta for the land in question in the year 1966 from the Gram Panchayat after paying the cost of land. That patta was never challenged by anybody nor it was cancelled. It appears that earlier under the Rajasthan Land Revenue (Allotment, Conversion and Agriculture Land for establishment of petrol pump) Rules, 1973 (for short 'the Rules of 1973'), some proceedings were initiated against the petitioner in which according to the petitioner, he deposited Rs.7,000/-. Still the petitioner was served with a notice dated 11.7.1984 issued by the Tehsildar, Mandalgarh. By this notice, the petitioner was asked to get his land regularised under the Rules of 1978 on the ground that the petitioner has established petrol pump and as per the Rules of 1978, he has not got regularised his petrol pump. The petitioner challenged the said notice by preferring an appeal before the District Collector, Bhilwara and the matter was remanded and thereafter again, the order was passed against the petitioner wherein the Tehsildar declared that the patta of the petitioner was wrongly issued by the Gram Panchayat as according to the Tehsildar, the

land was revenue land. However, the Tehsildar was of the view that still the petitioner may deposit Rs.5,892/- so that his case for regularisation of the land may be considered. Despite this recommendation, the petitioner was not satisfied. Ultimately, the matter came up before the Board of Revenue and the Board of Revenue vide order dated 6.4.1994 held that the petitioner since has not got the land regularised, therefore, the order of eviction passed against the petitioner is legal. The Board of Revenue dismissed the revision petition vide order dated 6.4.1994. Hence, this writ petition.

It appears from the facts of the case that the petitioner purchased the land from the Gram Panchayat and the Gram Panchayat issued the patta in favour of the petitioner in the year 1966. In the year about 1973, action was taken under the Rules of 1973 but admittedly, the petitioner was not dispossessed if he had not got his petrol pump regularised under the Rules of 1973. In the year 1984, only a notice was given to the petitioner for getting the land regularised under the Rules of 1978. About 10 years before that, the petitioner already started his petrol pump on the land in question and according to the petitioner, he invested Rs.1 lakh on the land. In the year 1978, the Rules of 1978 came into force and as per Rule 3 of the

Rules of 1978, the Rules have been enacted for the purpose of conversion and regularisation of the land for the purpose of construction of cinema or establishment of petrol pump. As per Section 6(1) of the Act of 1978, even a person who has trespassed upon the Government agriculture land and has utilised the same for construction of cinema, hotel and for establishment of petrol pump and wants to acquire lease rights in the land so used for construction of cinema, hotel or for establishment of petrol pump, he can submit application in writing before the Collector of the District upon which the matter can be enquired and appropriate order for regularisation can be passed. Since in this case, admittedly, the petitioner had patta of the land but the land in the revenue record was recorded as revenue land, therefore, this dispute arose. However, for the reasons best known to the respondents, if the patta issued by the Gram Panchayat was not valid, then till 1984, the petitioner was not evicted. In the year 1984, this notice was issued and even thereafter only, as per the order passed by the Tehsildar and quoted in the order dated 6.2.1984 passed by the District Collector, his case was recommended for regularisation on payment of Rs.5,892/-. Since the petitioner now confined his relief to the regularisation of petrol pump and wants to be governed by the Rules of 1978, therefore, in fact, there remains

no dispute now. The petitioner who is in possession of the property in dispute since 1966 and is running petrol pump for last 40 years cannot be evicted only on the ground that he has not paid certain amount in time.

In view of the above reasons, this writ petition is allowed, the order of the Board of Revenue dated 6.4.1994, order of the Revenue Appellate Authority dated 10.11.1986, order of the District Collector dated 6.2.1985 as well as the order of the Tehsildar, Mandalgarh dated 11.7.1984 so far as the petitioner's eviction are concerned are set aside.

The petitioner shall now deposit the requisite amount under the Rules of 1978 which may be determined by the District Collector as per the charges which could have been levied by the District Collector under the Rules of 1978 in the year 1984 as the notice for regularisation was given to the petitioner on 11.7.1984 by the Tehsildar, Mandalgarh. The petitioner, therefore, cannot be evicted from the land in question and the learned Collector may pass appropriate order for regularisation of petrol pump within three months from the date of receipt of copy of order, which may be supplied by the petitioner.

(PRAKASH TATIA), J.

S.Phophaliya